

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

Civil Action No:

SOUTH BOSTON ALLIED WAR
VETERANS COUNCIL (The Council)

Plaintiffs

V.

THE CITY OF BOSTON and
POLICE COMMISSIONER WILLIAM B. EVANS,
in his official capacity, and
MARTIN J. WALSH (The Mayor), MAYOR
OF THE CITY OF BOSTON, in his official capacity (.

Defendants

**COMPLAINT AND REQUEST FOR
INJUNCTIVE RELIEF
AND DECLARATORY JUDGEMENT**

FILED
IN CLERK'S OFFICE
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U.S. DISTRICT COURT
DISTRICT OF MASS.

NATURE OF THE ACTION

1. This action is brought pursuant to 42 U.S.C. § 1983 as the Defendants, under color of law, and without legal authority, deprived the Plaintiffs of certain fundamental rights, including but not limited to the rights protected by the First and Fourteenth Amendments to the Constitution of the United States, that resulted in injury to the Plaintiffs, and deprived and abridged the Plaintiffs' right of free speech, freedom to assemble, freedom to associate, and their liberty interest protected by the First, and Fourteenth Amendments to the United States Constitution.

In addition to compounding violations of the Plaintiffs' fundamental rights, the reduction of the time and locations of the Plaintiffs' First Amendment activities, deprived residents of the areas eliminated from the route of the parade, deprived the neighborhood and the residents of their opportunity to associate themselves with the Plaintiffs' First Amendment activity by their applause, and other reactions to the values and messages contained in the parade.

JURISDICTION

This action is brought pursuant to:

2. 28 U.S.C § 1331 because the matter in controversy arises under the Constitution and laws of the United States;
3. 28 U.S.C § 1343 (a) (4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, e.
4. 42 U.S.C § 1983 – Civil Action for Deprivation of Rights. Every person who, under color of any statute, ordinance, regulation custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section any action of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

A BRIEF STATEMENT OF THE CASE

5. For many years the annual St. Patrick's Day / Evacuation Day Parade has been organized and conducted by the South Boston Allied War Veterans Council on the streets of South Boston. The route of the parade down West Broadway, East Broadway, and then through various neighborhoods by sites historically related to the actions of the members of the Continental Army in the conflict with British troops that occupied Boston in 1776. The Parade passes by Dorchester Heights where General Washington and Henry Knox installed cannons retrieved from Fort Ticonderoga that, when viewed by the British, caused them to evacuate the Town of Boston without burning it down.
6. Last year, due to the accumulation of snow, the parade route was reduced to less than half of its usual size. The traditional parade route is pictured in Exhibit A. The shorter route is pictured in Exhibit C.
7. After applying for a parade permit for their parade in 2016 to conduct their parade on the traditional route, the Veterans Council was instructed that the Parade must be conducted on the same route as last year. The reasons given by the City were that the action was taken due to public safety concerns, and to reduce the expense to the City.
8. As detailed and argued below, the Veterans Council has had its fundamental rights of speech, assembly, association and liberty interests abridged and has also deprived spectators their right to view and respond to the parade units as they pass by.

PARTIES

9. The Plaintiff, South Boston Allied War Veterans Council, is an unincorporated organization that represents members and volunteers of several veterans' organizations located in South Boston.
10. Defendant, City of Boston, was incorporated in 1821 as a City and is a subdivision of the Commonwealth of Massachusetts, and is named as a Defendant as any judgement against the Police Commissioner, the Mayor, or any member of the City's administration is a judgement against the City of Boston.
11. The Defendant, Police Commissioner William B. Evans, of the City of Boston, is named as a Defendant in his official capacity.
12. The Defendant, Martin J. Walsh, is the Mayor of the City of Boston and is named as a Defendant in his official capacity.

FACTS OF THE CASE

13. For the last 20 years, the South Boston Allied War Veterans Council has conducted its annual St. Patrick's Day / Evacuation Day Parade over the same route, except for the cancellation of the parade in 1994.
14. The route travelled by the Parade is depicted in Exhibit A, and as detailed in the parade application for the year 2016 Exhibit B.
15. Due to the accumulation of snow in 2015, the route travelled by the Parade was shortened to West and East Broadway as depicted in Exhibit C.
16. On February 22, 2016, Commander Bill Desmond, Tim Duross as Parade Organizer and Fran Joyce as Parade Staff met with official representatives of the Boston Transportation Department, Boston Police Department, Special Events Staff, Boston Inspectional Services, and MBTA Police to conduct the usual pre-parade review and mutual approval of the parade route. They, the Council, were then told that the shortened route must be followed in the 2016 parade (see Exhibit C). After strenuous objection by the Council, Buddy Christopher of Inspectional Services Department suggested they take a second look and ensured the Council that they would be invited back to a follow-up hearing to review. No subsequent meeting was scheduled by City officials.
17. City officials continued to request submissions by the Council, relating to the Council's desire to have the traditional parade route restored.
18. A letter was written by Tim Duross to Joyce Judge, of the Special Events Office, per her request, enumerating all of the reasons why the traditional parade route was important to the members of the Council and members of the community (Exhibit D).
19. An appeal for reconsideration of the decision that the parade must follow the shortened route was made by Tim Duross in his letter dated February 25, 2016, addressed to Boston Transportation Department Commissioner Gina Fiandaca. (see Exhibit E)

20. The Council was stunned to receive an official permit by email, from Tim Bradeen, Senior Traffic Engineer of Boston Transportation Department, on Friday, February 26, 2016 at 4:55pm, which mandated the shortened route for the Parade (Exhibit F). In this permit, the Note section provided a basis for the decision which was "to mitigate public safety and congestion concerns", as is required by the Rules and Regulations of the Transportation department, Article VIII on Parades, Processions and Formations (attached), when any modification is made to the permit.
21. Parade organizer Tim Duross objected to the issued permit by email and, in response, Tim Bradeen declared that the issued permit was final and not open to reconsideration. (Exhibit G)
22. During a media interview, Mayor Martin J. Walsh announced the basis of the shortened route was due to "public safety" and the City's concern regarding expenses.
23. Part of the public response has been an internet petition entitled "Keep St. Patrick's Day The Same" that bears 1171 signatures at the time of this writing. (Exhibit H)
24. The recognition of historic landmarks, particularly Dorchester Heights, must be cherished and continued, as is poignantly described by Parade organizer Timothy Duross in his overview of the nexus between the neighborhoods of South Boston and the annual St. Patrick's Day / Evacuation Day Parade. He describes the Dorchester Heights location as the symbol of the sacrifices of so many South Boston heroes, both past and present, that perished fighting for the very rights and values embodied in our Constitution. (Exhibit I)
25. Plaintiffs incorporate by reference the entire contents of the Memorandum Of Law in its entirety, as if originally pleaded in its support for a request of a temporary Restraining Order, Injunctive Relief, and a Declaratory Judgement.

COUNT 1

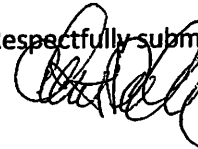
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26. Plaintiff repeats and reasserts the allegations in the above numbered paragraphs and incorporates them by reference as if fully and completely set forth herein.
27. By reducing the First Amendment activity of the Plaintiffs by shortening the traditional parade route of their annual St. Patrick's Day / Evacuation Day Parade the Mayor deprives the Plaintiffs of the opportunity to convey their messages and values throughout the neighborhoods of South Boston. The Mayor, by his prior restraint of the speech of the Plaintiffs, by his injury to the Plaintiffs' right of association with the spectators along the route without any basis in fact or law were in violation of the protections afforded to the rights of free speech, assembly, and association and in violation of the due process of law protected by the First and Fourteenth Amendment of the Constitution of the United States.

WHEREFORE, as a result of the actions of the Mayor that caused injuries to the Plaintiffs and their protection under the First and Fourteenth Amendments to the Constitution of the United States, the Plaintiffs respectfully request that this Honorable Court:

- a) issue a temporary restraining order mandating that the City of Boston issue a parade permit to the Plaintiffs that restores the parade route to the traditional route (Exhibit A) and (Exhibit B),
- b) issue a permanent restraining order against the City of Boston, its agents and servants, from interfering with the contents of Plaintiffs future parades, and
- c) award reasonable attorney's fees pursuant to 42 U.S.C. § 1988,
- d) award whatever additional relief is deemed appropriate and just.

Respectfully submitted,



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Dated: March 14, 2016